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PROPOSAL

From:	Secretary-General of the European Commission, signed by Mr Jordi AYET PUIGARNAU, Director
date of receipt:	14 July 2020
To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2020) 322 final
Subject:	Proposal for a COUNCIL REGULATION opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the 2021-2023 period

Delegations will find attached document [COM\(2020\) 322 final](#).

Encl.: [COM\(2020\) 322 final](#)



EUROPEAN
COMMISSION

Brussels, 14.7.2020
COM(2020) 322 final

2020/0144 (NLE)

Proposal for a

COUNCIL REGULATION

**opening and providing for the management of autonomous Union tariff quotas for
certain fishery products for the 2021-2023 period**

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

The EU relies on imports for the supply of certain fishery products. In recent decades, it has become increasingly dependent on imports to meet the demand for such products; EU fisheries and aquaculture production currently covers only 43% of its needs. The autonomous trade measures for fishery and aquaculture products are designed mainly to enable the EU fish processing industry to import non-EU countries' raw materials for further processing at reduced rates or duty-free. To ensure fair competition between imported fish products and EU fish products on the EU market, the impact of the measures on the competitiveness of EU fish producers, should also be taken into consideration.

The UK left the EU on 31 January 2020, with a transition period until the end of 2020. This proposal is based on the assumption that, at the end of the transition period, a free trade agreement between the EU and the UK will be agreed, so that trade flows can continue between the EU Member States and the UK, with no import duties in place. If there is no trade deal in place at the end of the Brexit transition period, the Council can decide to amend the Regulation on autonomous tariff quotas ('ATQ Regulation').

• Consistency with existing policy provisions in the policy area

This initiative is in line with and pursues the EU's established policy of securing an adequate supply of fishery products for its processing industry.

• Consistency with other Union policies

Not applicable

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

The legal basis for this proposal is Article 31 of the Treaty on the Functioning of the European Union.

• Proportionality

The policy choice is proportionate, because only a limited quantity of each product is authorised, and takes into account the utilisation rate, the need for a level playing field between EU and non-EU producers, value added and other trade preferences.

The proposal complies with the proportionality principle, because the customs union is a common policy and should therefore be implemented through a Regulation adopted by the Council.

• Choice of the instrument

Not applicable

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Ex-post evaluations/fitness checks of existing legislation**

Not applicable

- **Stakeholder consultations**

Consultations with EU producers, EU processors and national competent authorities from the Member States were carried out from January to March 2020, via a questionnaire. On 29 February 2020, the Commission also presented the consultation process to the Market Advisory Council, in which all stakeholders (industry and NGOs) are represented. None of the stakeholders opposed maintaining autonomous tariff quotas (ATQs) for fishery products.

As usual, EU producers proposed a minimalist approach (lower quantities and fewer products), while the EU processing industry proposed a maximalist approach (higher quantities and more products). The ten Member States that expressed their views mostly followed the advice of their respective industries. One country clearly argued for maximising self-supply and internal procurement based on the potential of EU production, using the Total Allowable Catches (TACs) and quota system as a reference for analysing this potential.

The resulting Commission proposal is balanced, and based on a factual and objective analysis of the data and information collected. It guarantees sufficient competitive supply for the EU processing industry, while taking into account the interests of EU fish producers.

- **Collection and use of expertise**

An external consultant (EUMOFA) was contracted to evaluate the value added of each product subject to the ATQs. Their work builds on an in-depth study from 2015 and its 2018 update, which confirmed the relevance, consistency and efficiency of the ATQs. Eurostat- and quota utilisation data were used to calculate each proposed quota.

- **Impact assessment**

No impact assessment was carried out. The proposal takes up the current legal act that expires at the end of 2020, therefore there is no need for an impact assessment. However, a thorough consultation with EU stakeholders has taken place in advance of the proposal going to the Council working party for debate.

- **Regulatory fitness and simplification**

Not applicable.

- **Fundamental rights**

Not applicable.

4. BUDGETARY IMPLICATIONS

The proposal does not have a budgetary impact for the Commission.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

Not applicable.

- **Explanatory documents (for directives)**

Not applicable.

- Detailed explanation of the specific provisions of the proposal

Not applicable.

Proposal for a

COUNCIL REGULATION

opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the 2021-2023 period

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 31 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) Union supplies of certain fishery products currently depend on imports from third countries. In recent decades, the Union has become more dependent on imports to meet its demand for fishery products. In order to ensure that the Union's production of fishery products is not jeopardised and that there is an adequate supply of fishery products to its processing industry, import duties should be suspended or reduced for a number of fishery products within tariff quotas of an appropriate volume. To ensure fair competition between imported fish products and Union fish products on the EU market, the impact of the measures on the competitiveness of Union fish producers, should also be taken into consideration.
- (2) Council Regulation (EU) 2018/1977¹ opened and provided for the management of autonomous Union tariff quotas for certain fishery products for the 2019-2020 period. Given that the period of application of that Regulation expires on 31 December 2020, a new Regulation providing for tariff quotas should be adopted for the 2021-2023 period.
- (3) All Union importers should benefit from equal and uninterrupted access to the tariff quotas provided for in this Regulation and the rates set out for the tariff quotas should be applied without interruption to all imports of the fishery products concerned into all Member States until the tariff quotas have been used up.
- (4) Commission Implementing Regulation (EU) 2015/2447² provides for a system of tariff-quota management, which follows the chronological order of the dates on which the declarations on release for free circulation were accepted. The tariff quotas opened

¹ Council Regulation (EU) 2018/1977 of 11 December 2018 opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2019-2020 (OJ L 317, 11.12.2018, p. 2).

² Commission Implementing Regulation (EU) 2015/2447 of 24 November 2015 laying down detailed rules for implementing certain provisions of Regulation (EU) No 952/2013 of the European Parliament and of the Council laying down the Union Customs Code (OJ L 343, 29.12.2015, p. 558).

by this Regulation should be managed by the Commission and the Member States in accordance with that system.

- (5) It is important to ensure transparency, predictability and legal certainty for all stakeholders. Since the tariff quotas are intended to ensure the adequate supply of fishery products to the Union's processing industry, a minimum level of treatment or operation should be required for quota entitlement.
- (6) To ensure that the tariff quotas are managed in an efficient way, Member States should be allowed to draw from the tariff quota amount the necessary quantities corresponding to their actual imports. Since that method of management requires close cooperation between the Member States and the Commission, the Commission should be able to monitor the rate at which the tariff quotas are used up and should inform the Member States accordingly,

HAS ADOPTED THIS REGULATION:

Article 1

Import duties on the products listed in the Annex shall be suspended or reduced to fall within the tariff quotas, at the rates, for the periods, and up to the amounts indicated therein.

Article 2

The tariff quotas referred to in Article 1 of this Regulation shall be managed in accordance with Articles 49 to 54 of Implementing Regulation (EU) 2015/2447.

Article 3

The tariff quotas shall be subject to end-use customs supervision in accordance with Article 254 of Regulation (EU) No 952/2013 of the European Parliament and of the Council³.

Article 4

1. The suspension or reduction of import duties shall apply only to products intended for human consumption.
2. The tariff quotas shall not be available for products whose processing is carried out at retail- or catering level.
3. The tariff quotas shall not be available for products intended solely for one or more of the following operations:
 - (a) cleaning, gutting, tailing, heading;
 - (b) cutting;
 - (c) repacking of frozen individually quick frozen (IQF) fillets;
 - (d) sampling, sorting;
 - (e) labelling;
 - (f) packing;

³ Regulation (EU) No 952/2013 of the European Parliament and of the Council of 9 October 2013 laying down the Union Customs Code (OJ L 269, 10.10.2013, p. 1).

- (g) chilling;
 - (h) freezing;
 - (i) deep freezing;
 - (j) defrosting
 - (k) glazing;
 - (l) thawing;
 - (m) separation.
4. Notwithstanding paragraph 3, the tariff quotas shall be available for products intended for one or more of the following operations:
- (a) dicing;
 - (b) cutting into rings, cutting into strips, for materials under CN codes 0307 43 91, 0307 43 92 and 0307 43 99;
 - (c) filleting;
 - (d) production of flaps;
 - (e) cutting of frozen blocks;
 - (f) splitting of frozen interleaved fillet blocks;
 - (g) slicing for materials under CN codes ex 0303 66 11, ex 0303 66 12, ex 0303 66 13, ex 0303 66 19, ex 0303 89 70 and ex 0303 89 90;
 - (h) treatment by packaging gases as defined in Annex I to Regulation (EC) No 1333/2008 of the European Parliament and of the Council⁴ for products under CN codes 0306 16 99 (TARIC subdivision 20 and 30), 0306 17 92 (TARIC subdivisions 20), 0306 17 99 (TARIC subdivision 10), 0306 35 90 (TARIC subdivisions 12, 14, 92 and 93), 0306 36 90 (TARIC subdivisions 20 and 30), 1605 21 90 (TARIC subdivisions 45, 55 and 62) and 1605 29 00 (TARIC subdivisions 50, 55 and 60).

Article 5

The Commission and the customs authorities of the Member States shall cooperate closely to ensure the proper management and control of the application of this Regulation.

Article 6

This Regulation shall enter into force on the third day following that of its publication in the Official Journal of the European Union.

It shall apply from 1 January 2021 to 31 December 2023

⁴ Regulation (EC) No 1333/2008 of the European Parliament and of the Council of 16 December 2008 on food additives (OJ L 354, 31.12.2008, p. 16).

This Regulation shall be binding in its entirety and directly applicable in all Member States.
Done at Brussels,

*For the Council
The President*

Legislative financial statement 'Revenue'

1. NAME OF THE PROPOSAL:

Proposal for a Council Regulation opening and providing for the management of autonomous Union tariff quotas for certain fishery products for the period 2021-2023.

2. BUDGET LINES:

Chapter and Article: Chapter 1 2, Article 1 2 0

3. FINANCIAL IMPACT

Proposal has no financial implications

Proposal has no financial impact on expenditure but has a financial impact on revenue.

(EUR million to one decimal place⁵)

Revenue line ⁶	Year N	Year N+1	Year N+2
Article 1.2.0	219.2	219.2	219.2

4. ANTI-FRAUD MEASURES

Checks on the end-use of some of the products covered by this Council Regulation will be carried out in accordance with Article 254 of Regulation (EU) No 952/2013 laying down provisions for the implementation of the Community Customs Code.

5. OTHER REMARKS

The main impact of the Regulation is the loss of revenue for the European Union. Taking the most recent complete statistics (2018) as a basis, the impact on the loss of revenue resulting from this Regulation may be estimated at €219.2 million for the first year of the triennial period beginning in 2021.

The stated amount has been calculated on the basis of MFN duty rates, full utilisation of quotas, average price (€) per ton and the fact that 80% of the duties is included in the EU budget (€ 219.2 million = 80% of € 274.0 million). It marks, therefore, the maximum level of loss of revenue since the Community grants more favourable trade preferences to different groups of third countries (GSP, GSP+, FTAs).

Therefore the actual loss of revenue tends to result in a lower amount since MFN duties do not apply across the board.

⁵ The amounts per year need to be an estimation based on the formula under section 5 with a footnote indicating it, e.g. "indicative amount based on the agreed formula". For the starting year, the yearly amount is normally paid without a reduction or prorata.

⁶ In the case of traditional own resources (agricultural duties, sugar levies, customs duties), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.